

## November 2006 Unified Program Newsletter

### IN THIS ISSUE:

<b>Cal/EPA</b>	<b>US EPA Finds Kmart in Violation of Clean Water Act Report 1 Fee Submittal Address</b>
<b>SWRCB</b>	<b>Enhanced Leak Resources Control Board Detection (ELD) Follow-up CUPA Quarterly Reporting (Report 6)</b>
<b>OES</b>	<b>Head of OES CUPA Program Takes Promotion</b>
<b>DTSC</b>	<b>Closure Costs for PBR and CA Facilities Enforcement and Emergency Response Consolidation</b>

## California Environmental Protection Agency

### US EPA Finds Kmart in Violation of Clean Water Act

In January 2004 Kmart notified US EPA that it wished to enter into an agreement for a corporate wide audit to be done under US EPA's policy called Incentives for Self Policing. As a result of the audit, Kmart found that it was in violation of the CWA NPDES and SPCC programs and with multiple regulatory requirements for the management of hazardous waste. US EPA has entered into a proposed consent agreement with Kmart. US EPA will submit the settlement to the Environmental Appeals Board for approval on November 16, 2006. For additional information, please contact Lisa Brown at (916) 322-7310 or [lbrown@calepa.ca.gov](mailto:lbrown@calepa.ca.gov).

### Report 1 Fee Submittal Address

CalEPA has recently received a number of surcharge payments mailed to an incorrect address. Misdirected checks may result in delays in getting funds into the appropriate account and may result in actual loss of funds. We verified the correct mailing address with our Accounting Office and updated the instructions for Report 1 accordingly (<http://www.calepa.ca.gov/CUPA/Documents/R1Instruct.pdf>). Please review the address you/your accounting department are currently using and ensure you are using the following address:

Air Resources Board  
Attn: Accounting  
P.O. Box 1436  
Sacramento, CA 95812

Thanks for your assistance.

## State Water Resources Control Board

### Enhanced Leak Detection (ELD) Follow-up

On July 24, 2006, the State Water Board emailed the following two lists of sites associated with ELD testing (based on proximity to drinking water wells) to the CUPAs: 1.) List of 1,143 delinquent facilities that have not complied with the requirement for ELD testing; and 2.) List of 1,411 prospective facilities that the State Water Board has not yet notified. We requested that the CUPAs update these lists to minimize the workload associated with processing requests for reconsideration. CUPA's were asked to update this information by correcting or providing any address, closure, ELD test date or well proximity information, etc. Based on the updated information, some sites will be removed from the notification list. If the site has been notified and is still required to test, they will be sent a reminder letter. If they are no longer required to test, they will be sent a letter to that effect.

Thanks go to all the CUPA's for their work in providing this data. As of October 18, 2006, the State Water Board has received updates from 33 CUPAs/PAs. After processing the information from most of the responding agencies, the State Water Board determined that 416 UST facilities would not need to be notified, 194 UST facilities would receive a new notification, 123 UST facilities would receive Reminder letters, 55 UST facilities would receive letters rescinding previous notifications, and 242 UST facilities would need some type of follow-up. We have provided the agencies, whose data we processed, with lists of the disposition of each of their facilities for a final review, and intend to start sending out our first round of letters by November 1, 2006.

For the agencies that have not responded, please do so as soon as possible. Facilities not included in this round of notifications will be included in the next round, if updates are received.  
UST Program Contact: Terry Brazell ([tbrazell@waterboards.ca.gov](mailto:tbrazell@waterboards.ca.gov); 916-341-5645)

#### **CUPA Quarterly Reporting (Report 6)**

For the April-June 2006 quarter, 84 CUPAs and PAs (82% of the 102 CUPAs/PAs) submitted quarterly reports (Report 6, Title 27 regulations). UST inspections for Significant Operational Compliance (SOC) totaled 2,951, compared to the previous quarter's 2,988 inspections. Local agencies reported that 72% of inspected facilities were in SOC with release detection requirements, 78% were in SOC with release prevention requirements, and 70% were in SOC with both release detection and release prevention requirements. CUPAs issued 27 Red Tags during this quarter.

As of June 30, 2006, there were 16,013 UST facilities; 38,016 active and 122,664 closed petroleum USTs; and 3,306 active and 20,150 closed hazardous substance USTs. During the April-June 2006 quarter, the following closures were reported: 217 petroleum USTs, and 59 hazardous substance USTs. There were 11 more UST facilities reported during this period.  
UST Program Contact: Terry Snyder ([tsnyder@waterboards.ca.gov](mailto:tsnyder@waterboards.ca.gov); 916-341-5385)

### **Office of Emergency Services**

#### **Head of OES CUPA Program Takes Promotion**

Moustafa Abul-Taleb, the manager of the OES Hazmat Division, has accepted a promotion. He will move to his new position in the Preparedness and Training Division in the next few weeks and OES will begin the process of back filling the vacant management position.

### **Department of Toxic Substances Control**

#### **Closure Costs for PBR and CA Facilities**

Permit by Rule (PBR) AND Conditionally Authorized facilities are required to estimate closure costs. If the estimated closure cost is equal to or less than \$10,000, financial assurance is not required. Some facilities have been estimating their closure costs based on the closure of individual units. The closure of individual units is often less than \$10,000. The closure cost estimate for all units at a given facility normally aggregates above \$10,000. May PBR and CA facilities with multiple treatment units qualify for the exemption from financial assurance requirements based on the closure costs for each unit individually or on the combined closure costs of the entire facility? PBR and Conditionally Authorized facilities may only qualify for the exemption from financial assurance requirements if the closure cost estimate for the entire facility (the aggregate of all units) is less than \$10,000. For more information, please contact Clyde West at (916) 324-1804 or [cwest@calepa.ca.gov](mailto:cwest@calepa.ca.gov).

### **Enforcement and Emergency Response Consolidation**

After months of discussion, DTSC has decided to merge the enforcement and emergency response functions under a new Deputy Director. DTSC's enforcement and emergency response functions play a major role in environmental protection and they have both earned the respect of industry, elected officials and the public. DTSC's enforcement program is among the best; its emergency response program is praised by local and State officials, and is widely regarded for its illegal drug lab program. These functions have achieved this high level of service while being located within other programs.

Strong support for merging all enforcement functions together and combining enforcement with emergency response came through during discussions with staff members, the regulated community and the public and from thoughtful written comments. This new organization provides for greater internal and external communication. It will speak with one voice, and that voice will benefit from the perspectives from all our enforcement functions. It enhances the symbiotic nature of enforcement and emergency response functions, by providing a solid foundation for enforcement cases that begin as emergencies. It gives DTSC the flexibility to deploy large numbers of staff as needs shift.

Compliance assistance and enforcement training are also integral parts of the enforcement spectrum. DTSC will create a new unit to provide training for the regulated industry, DTSC staff members and CUPAs. The new unit will also do targeted compliance assistance for sectors with a high level of non-compliance. Financial responsibility is in effect a form of enforcement. It ensures that companies that operate hazardous waste facilities put up funds to address any future releases from the facility. This mechanism protects the environment and taxpayers. It is also a tool DTSC can use to ensure environmental compliance. Therefore, this new organization will also include a financial responsibility unit.

The purpose of this reorganization is to create an organization where branches work under the same organizational structure, enhance their decision-making and communication, develop a continuum of service and oversight at facilities that handle (and mishandle) hazardous materials, and provide the department great flexibility to move resources quickly when needs arise.

**The Unified Program Section is interested in your comments and suggestions regarding the monthly newsletter. Please provide comments and suggestions to [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov).**

**[Cal/EPA Unified Program Home Page](#)**